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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte CAROLYN CHRISTINE RAMSEY-CATAN

Appeal 2008-1469
Application 09/973,356
Technology Center 3600

Decided: June 30, 2008

Before HUBERT C. LORIN, DAVID B. WALKER, and
MICHAEL W. O'NEILL, Administrative Patent Judges.

LORIN, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Carolyn Christine Ramsey-Catan (Appellant) seeks our review under 35 U.S.C. § 134 of the final rejection of claims 1-3 and 8-10. We have jurisdiction under 35 U.S.C. § 6(b) (2002).

SUMMARY OF DECISION

We AFFIRM.¹

THE INVENTION

The invention is related to home shopping over a network. Specifically, the invention is directed to monitoring and limiting remote purchases (i.e., over the Internet). The Specification describes a remote purchase controller 200 (see Fig. 2) which

determines [whether] a requested remote purchase would cause the requesting user to exceed their limit (either absolutely and/or with the over-draft margin) [and, if so,] the remote purchase is not immediately completed by remote purchase controller 200. Depending on user-defined setting for the corresponding user, remote purchase controller 200 may simply ignore or discard the requested remote purchase transaction, or the requested remote purchase transaction may be held pending a limit override approval by another user [] or for completion during a subsequent period.

(Specification 15:10-21.)

Claim 1, reproduced below, is representative of the subject matter on appeal.

1. A system for monitoring and controlling remote purchases comprising:
a home access device selectively coupled to

¹ Our decision will make reference to the Appellant's Appeal Brief ("App. Br.," filed Jan. 3, 2007), the Examiner's Answer ("Answer," mailed May 1, 2007), and the Reply Brief ("Reply Br.," filed Sep. 24, 2007).

at least one communications system; and
a remote purchase controller controlling
remote purchases over the at least one
communications system involving the home access
device, the remote purchase controller:
responsive to detecting an attempt to
execute a remote purchase transaction, determining
whether the remote purchase transaction should be
completed based upon a remote purchase limit;
and
responsive to determining that the
remote purchase transaction should not be
completed, holding the remote purchase
transaction for processing during a subsequent
period.

THE REJECTIONS

The Examiner relies upon the following as evidence of
unpatentability:

Headings US 2002/0143647 A1 Oct. 3, 2002

The following rejection is before us for review:

1. Claims 1-3 and 8-10 are rejected under 35 U.S.C. § 103(a) as
unpatentable over Headings.

ISSUES

The issue is whether the Appellant has shown that the Examiner erred
in rejecting claims 1-3 and 8-10 as unpatentable over Headings. This issue
turns on whether one of ordinary skill in the art would have been led to a
system comprising a remote purchase controller “holding [a] remote
purchase transaction for processing during a subsequent period” (claim 1)

given Headings' disclosure of a system comprising a remote purchase controller that "suspends" a transaction if a debit is not satisfied.

FINDINGS OF FACT

We find that the following enumerated findings are supported by at least a preponderance of the evidence. *Ethicon, Inc. v. Quigg*, 849 F.2d 1422, 1427 (Fed. Cir. 1988) (explaining the general evidentiary standard for proceedings before the Office).

The scope and content of the prior art

1. Headings is related to a subscriber management system for a digital media service and describes a head of household (HoH) account holder controlling family member sub-accounts. (See [0015] and Fig. 2.)
2. Headings' system comprises a home access device coupled to a communications system (Fig. 1, items 16 and 17, [0014]).
3. Headings' system includes a remote purchase controller (Fig. 1, server software 12 and database 14, [0014]).
4. Headings' remote purchase controller is responsive to a remote purchase and determines whether the purchase can be satisfied depending on, for example, spending limits set for the subscriber account. (See [0019] and [0022].)
5. Headings explains that, in a preferred method for settling subscriber's account, "[i]f account permissions are present, then ... the account permissions are reviewed and content delivery will be based upon the permissions. ... [T]he subscriber order is delivered

... recorded ... [and] the system calculates the total amount due on the subscriber account.” (See Fig. 4 and [0023].)

6. Headings further describes “suspend[ing]” the transaction if a debit cannot be posted to a second account. (See Headings claim 6 (“6. The system of claim 1, wherein said processor is programmed to suspend the transactions associated with the first account if said debit cannot be posted to the second account.”))

Any differences between the claimed subject matter and the prior art

7. The claimed subject matter differs from the prior art in that the cited references do not explicitly disclose the claimed a system comprising a remote purchase controller with the function of “holding [a] remote purchase transaction for processing during a subsequent period” (claim 1).

The level of skill in the art

8. Neither the Examiner nor the Appellant has addressed the level of ordinary skill in the pertinent art of monitoring and controlling remote purchases. We will therefore consider the cited prior art as representative of the level of ordinary skill in the art. *See Okajima v. Bourdeau*, 261 F.3d 1350, 1355 (Fed. Cir. 2001) (“[T]he absence of specific findings on the level of skill in the art does not give rise to reversible error ‘where the prior art itself reflects an appropriate level and a need for testimony is not shown’”) (quoting *Litton Indus. Prods., Inc. v. Solid State Sys. Corp.*, 755 F.2d 158, 163 (Fed. Cir. 1985).

Secondary considerations

9. There is no evidence on record of secondary considerations of non-obviousness for our consideration.

PRINCIPLES OF LAW

“Section 103 forbids issuance of a patent when ‘the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.’” *KSR Int’l Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 1734 (2007). The question of obviousness is resolved on the basis of underlying factual determinations including (1) the scope and content of the prior art, (2) any differences between the claimed subject matter and the prior art, and (3) the level of skill in the art. *Graham v. John Deere Co.*, 383 U.S. 1, 17-18 (1966). *See also KSR*, 127 S.Ct. at 1734 (“While the sequence of these questions might be reordered in any particular case, the [*Graham*] factors continue to define the inquiry that controls.”) The Court in *Graham* further noted that evidence of secondary considerations “might be utilized to give light to the circumstances surrounding the origin of the subject matter sought to be patented.” 383 U.S. at 17-18.

ANALYSIS

The Appellant argues claims 1-3 and 8-10 as a group (Br. 11-15). We select claim 1 (*see supra*) as the representative claim for the group, and the remaining claims 2, 3, and 8-10 stand or fall with claim 1. 37 C.F.R. § 41.37(c)(1)(vii) (2007).

The Examiner determined that Headings describes all the features of the claimed system except that “Headings does not explicitly teach holding the transaction for processing after determining that the transaction should not be completed.” (Answer 4.) However, the Examiner found that Headings “teaches suspending a transaction if a debit cannot be posted to a second account (claim 6).” (Answer 4.) The Examiner determined that “it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to suspend a transaction for subsequent processing in the event a permission was violated in the invention of Headings.” (Answer 4.)

The Appellant conceded that Headings suggests suspending a transaction. (App. Br. 12.) However, the Appellant disputes that suspending a transaction “could include the alternative of holding the transaction until a subsequent period, to be processed after a period-based limit is reset at the start of the subsequent period.” (App. Br. 12.) The Appeal Brief and the Reply Brief repeat the argument that Headings’ suggestion of suspending a transaction does not render obvious the claimed function for the remote purchase controller such that it is able to “hold[] the remote purchase transaction for processing during a subsequent period.”

We are not persuaded by the Appellant’s argument that Headings’ suspension of a transaction would not lead one of ordinary skill to the claimed feature of “holding the remote purchase transaction for processing during a subsequent period.”

When a transaction is suspended, one of ordinary skill would predict that one of two possible outcomes could occur: either (a) the transaction is terminated or (b) the transaction is held in abeyance until the conditions for a

successful transaction are met. The claimed “holding the remote purchase transaction for processing during a subsequent period” is just another way of saying that the transaction is held in abeyance until the conditions for a successful transaction are met, the second possible outcome. Since this second possibility would have been a predictable outcome of using Headings’ system, it would have been obvious to one of ordinary skill in the art to provide the remote purchase controller of Headings’ system with the additional function to “hold[] the remote purchase transaction for processing during a subsequent period.” (Claim 1). *Cf. KSR*.

When there is a design need or market pressure to solve a problem and there are a finite number of identified, predictable solutions, a person of ordinary skill has good reason to pursue the known options within his or her technical grasp. If this leads to the anticipated success, it is likely the product ... of ordinary skill and common sense.

KSR at 1742.

CONCLUSIONS OF LAW

We conclude the Appellant has failed to show that the Examiner erred in rejecting claims 1-3 and 8-10 as unpatentable over Headings under § 103.

DECISION

The decision of the Examiner to reject claims 1-3 and 8-10 is affirmed.

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No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 1.136(a)(1)(iv) (2007).

AFFIRMED

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